1949. **File No.** O. Pub. Trust Regn. /49

Legal Dept.

A **BRANCH**

Subject:— Opinions under Bombay Public Trust Registration Act

P/b E.

File No. O. Pub. Trust Regn. /49

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C O N T E N T S.

Legal Department File No. O. Public Trust Regn /49

Sr. No.	R.I./ O.No.	Subject	pages
1	[illegible]	Bombay Public Trust Registration Act - 1935. Refund of contribution paid under a mistake of law. whether the Association is entitled to claim refund	1 .
2.	[illegible]	Public Trust - Legislation relating to -	3 -
3.	[illegible]	Sec. 6. Trust Property in Satara Dist. Alleged mismanagement by trustees. Holding of an inquiry.	5 - 7.

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"If a person voluntarily and with full knowledge of the facts but under a mistake of law makes a payment on account of a tax to which he is not liable, he cannot recover it." (National Pari-Mutuel Association vs. The King (1930) 74 S.J. 568 .- cited in Broom's Legal Maxims, 10th Ed. p. 172). The payment of contribution by the Akhil Chitpawan Brahmin Vidyarthi Sahayak Mandal, Ratnagiri under the Bombay Public Trusts Registration Act, 1935 on being registered at its own request, although it was not in law liable to be so registered would amount to voluntary payment under a mistake of law and consequently the Mandal would not be entitled to claim re und th thereof.

P.M.Lad,

7-4 .-

Remembrancer of Legal Affairs.

U.R. to R.D. No. 3823 , dated the 8th April 1949.

S.G. 4/6

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Public Trusts.

In view of the impending legislation relating to public trusts no separate legislation for the purposes mentioned by the Secretary , Kasht Niwarak Samiti in his letter at page 1 ante appears necessary

P.M.Lad.
14-9

Remembrancer of Legal Affairs.

U.R. to H. & L.G.D. No. 10456, dated the 15th September 1949.

S.C. 4.6

Legal Department.

1640 3 dt. 8-10-39.

Submitted with reference to R.D. office note at pp. 43-44 ante. This is in connection with the petition addressed by one Bapurao Bandopant Kulkarni to the Hon'ble the Premier in regard to the alleged mismanagement of a trust at Karhad, district Satara. The R.D. was asked to verify the allegations made in the petition. The report of the Registrar and of the District Judge, North Satara is at pp. 41 and 37 ante. The ~~xxx~~ facts in short are these. It appears that about 200 years ago a grant of some lands at Savade Goware and Tembhoo in taluka Karhad was made by Shahu the first in favour of the family of Shree Niranjan Deo . At present one third of the estate is held by one Ramchandra Wasudeo Deo who is a direct descendant of Niranjan Deo. The remaining two thirds of the property was held by one Bapuji Ramchandra Deo, brother of the great grandfather of the said Ramchandra Wasudeo. A trust was created by Bapuji Ramchandra by trust deed dated 9-6-1919 in respect of his entire property including the two thirds referred to. Messrs. V.M. Joshi and R.V. Purandare are at present the trustees. It is alleged that the said trustees are not utilising the income of the trust property according to the wishes of the donor but have misappropriated the same.

2. Clause 2 of the trust deed (Copy of at pp. 7-10 ante) provides that the trustees should out of the income of the ancestr lands at Savadu, Tembhu Gowar

for the "उर्वरित "(which appears to be a mistake for " उर्वरीत " of shree Ganpati Deo and the rest of the income should be enjoyed by his wife. Clause 6 provides that in case the donor's wife failed to adopt a son the said property should, after her death be utilised for the purposes of the dispensary at Karhad or for aiding a sanskrit school or a High School that might be started there. This is subject to the annual expenditure to be incurred on account of Shree Ganpati Deo.

3. It would appear from this that a trust has been created for public purposes of religious and charitable nature. The petitioners allege that the trustees have not upto now spent any amount for any of the purposes of the trust. The trustees are holding charge of the property since 1930. The District Judge, North Satara, reports that the Civil Judge, Senior Division, Satara who is the Registrar of Public Trusts for the District proposes to hold an inquiry under section 6 of the Bombay Public Trusts Registration Act, 1935, and suggests that in order to claim the reliefs prayed for in the petition the petitioners should be asked to file a suit under sec. 22 of the C.P.Code. The R.D. proposes to inform Mr/ V.P. Powar , M.L.A. through whom the petition has been made, accordingly. The papers are shown to the R.L.A. with reference to his u.o.r. No. 9240, dated 16-8-49

4. The course suggested by the District Judge , North Satara, and proposed to be followed by the R.D. is legally in order and no other action appears necessary. The papers may be seen and returned with these remarks.

P.M.Lad
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Seen and returned. The course suggested by the District Judge, North Satara and proposed to be followed by the Revenue Department is Legally in order and no other action is necessary.

P.H.Lad,
16-11

Remembrancer of Legal Affairs.

U.R. to R.D. No. 12722 , dated the 11th November 1949.

S.C. 4/6